



OFFICE OF THE WASHINGTON COUNTY ATTORNEY  
PETER J. ORPUT COUNTY ATTORNEY

23/033

**FILED**

OCT - 3 2011

September 23, 2011

**SURFACE  
TRANSPORTATION BOARD**

Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E. Street SW  
Washington, DC 20423-0001

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Office of Proceedings

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Public Record

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MANAGEMENT  
STB

TRANSPORTATION BOARD

OCT - 3 2011

**FREE RECEIVED**

AB6-474X

RE: BNSF Railway Abandonment in Washington County, MN; FR-4915-01-P

Dear Ms. Estes:

Our office represents Washington County and its Regional Rail Authority. This request is filed on behalf of Washington County, Minnesota (County). The County Rail Authority was created for the purpose of preserving rail right-of-way for future transportation uses, including the preservation for future rail/transit service and designing, constructing and funding a regional trail known as Hardwood Creek that goes through northern Washington County and the City of Hugo.

The County supports this abandonment and requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization in the above file. We also request that the filing fee be waived since we are a local governmental agency.

A. Public Use Condition

The County requests the STB to find this property is suitable for other public use, specifically preservation for future transit and trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor is a logical extension of the County Rail Authority's existing rail corridor property immediately to the north of this abandoned rail bed and provides an extension of the existing regional trail. The corridor would preserve this right-of-way for future transit uses and make an excellent recreational trail. Conversion of the property to future transit and trail use is in accordance with longstanding local plans. The time period sought is 180 days from the effective date of the abandonment authorization. The County needs this much time because it has not had an opportunity to assemble or to review title information, perform an appraisal, or commence negotiations with BNSF.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts, and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

**B. Interim Trail Use**

The railroad right-of-way in this proceeding is suitable for rail banking. In addition to the public use conditions sought above, the County also makes the following request:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY**

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29, the County is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by BNSF.

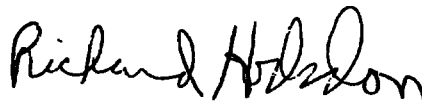
The property extends from railroad milepost 15.59 to 16.10 in Washington County, Minnesota. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub-No. 474X). A map depicting the right-of-way is attached in Exhibit A.

The County acknowledges that use of the right-of-way is subject to the users continuing to meet is responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon the STB and railway.

Respectfully submitted,

PETE ORPUT, COUNTY ATTORNEY  
WASHINGTON COUNTY, MINNESOTA



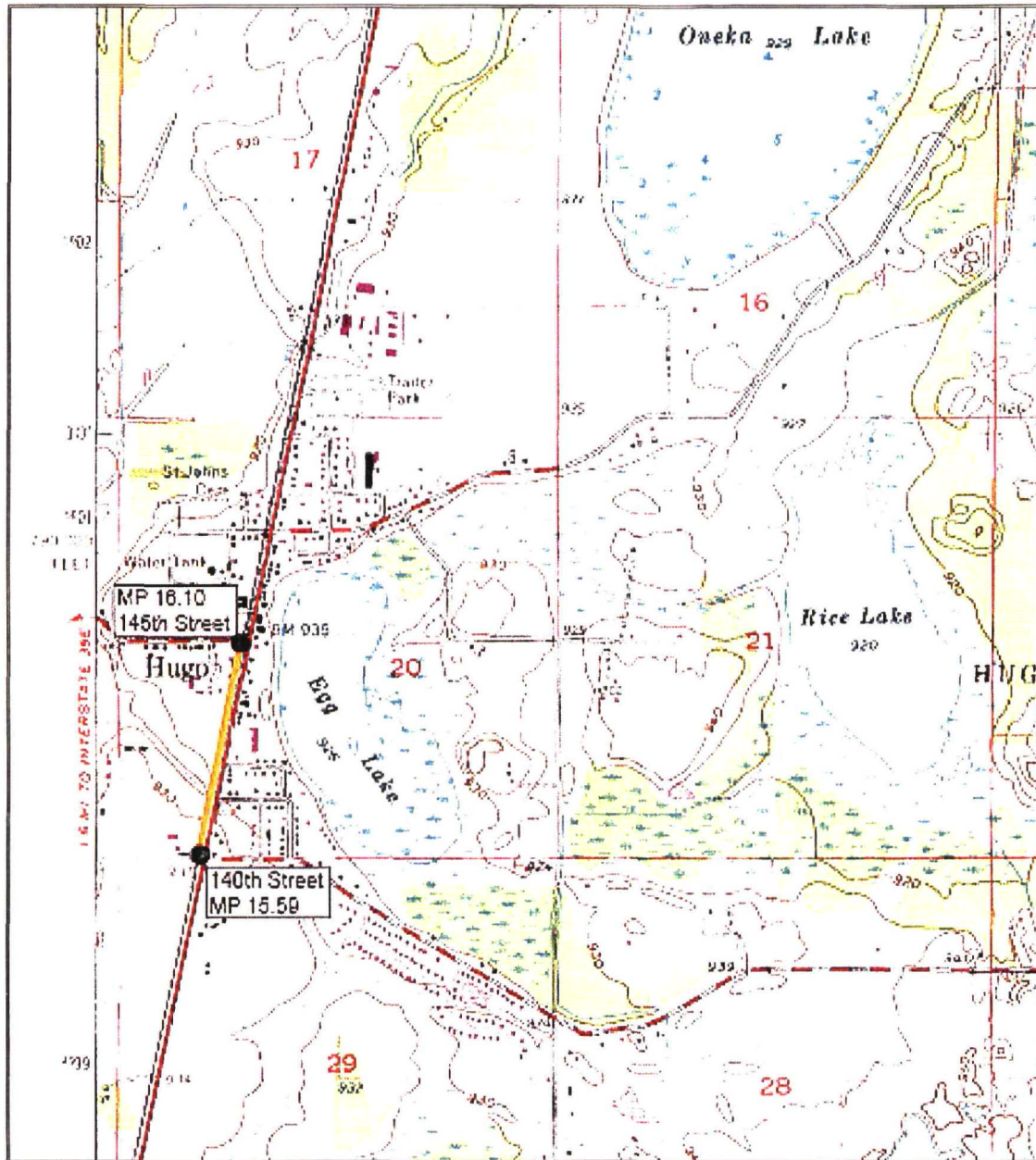
Richard D. Hodsdon  
Assistant County Attorney  
Telephone: (651) 430-6119  
E-Mail: Rick.Hodsdon@co.washington.mn.us

RDH/ab

Attachments - \$250.00 Filing Fee

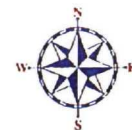
cc: Sharon Price, Public Works

# EXHIBIT A



BNSF Line Segment 214  
Milepost 15.59 to Milepost 16.10  
West Bear Subdivision  
Washington County, Minnesota

STB Docket No.  
AB-6 (Sub-No. 474X)



Base map – United States Geological Survey  
Hugo Quadrangle  
7.5-minute series  
45092-B8-TF-024

Map source date 1967 Revised 1993  
DRG Creation Date: 05/12/2010  
DMA 7474 III NW Series V872

DATE September 6, 2011

DEPARTMENT Public Works/Regional Rail

MOTION  
BY COMMISSIONER Weik

SECONDED BY  
COMMISSIONER Kriesel

**RESOLUTION TO SUBMIT A LETTER TO THE SURFACE TRANSPORTATION BOARD  
REQUESTING ABANDONED PROPERTY HAS A PUBLIC PURPOSE**

**WHEREAS**, in 1994, Washington County Regional Railroad Authority (WCRRA) purchased 9.5 miles of abandoned rail right-of-way for future transit opportunities and trail use. The line extends from 145<sup>th</sup> Street (old County State Highway (CSAH) 8) in the City of Hugo to the Chisago County line; and

**WHEREAS**, there is a 1/2 mile missing link of abandoned rail line owned by Burlington Northern Santa Fe (BNSF) Railway Company from 140<sup>th</sup> Street (MP 15.59) to 140<sup>th</sup> Street (MP 16.10) in the City of Hugo as identified on the Hugo Quadrangle, Base Map, USGS, 1993 (Attachment 1); and

**WHEREAS**, the Washington County Comprehensive Plan 2030 identifies this property as part of both the Washington County Planned Trail System and Future Transitway Corridor; and

**WHEREAS**, in 2009, Washington County requested that BNSF Railway Company abandon the rail line in anticipation of purchasing and improving the right-of-way for trail purposes and preserving it for future rail use; and

**WHEREAS**, in June of 2011, BNSF Railway Company filed a notice of Abandonment Exemption (Abandonment) and an environmental review and historic reports with the Surface Transportation Board (STB) to abandon the rail line. The Abandonment became effective on August 11, 2011; and

**WHEREAS**, the WCRRA intends to purchase the property for future rail use with an interim use as a trail.

**NOW, THEREFORE, BE IT RESOLVED**, that the WCRRA hereby authorizes the County Attorney's Office to prepare a letter to the STB stating that this half-mile corridor has a public purpose for future rail use and for interim trail use.

ATTEST:

  
COUNTY ADMINISTRATOR

  
REGIONAL RAIL AUTHORITY CHAIR

	YES	NO
HEGBERG	<u>X</u>	<u>      </u>
KRIESEL	<u>X</u>	<u>      </u>
LEHRKE	<u>X</u>	<u>      </u>
PULKRABEK	<u>X</u>	<u>      </u>
WEIK	<u>X</u>	<u>      </u>